the least of which was stem cell research, will be heard and that his memory and the work he was engaged in will be our work in the coming years.

FSC/ETI

Mr. DODD. Mr. President, I rise this afternoon to speak about the most recently passed piece of legislation; that is, the FSC/ETI tax bill that consumed a great deal of time over the last several days. I begin by congratulating Senators GRASSLEY and BAUCUS who wrote a very good bill in the Senate.

When that bill left the Senate, I thought that it was a very sound piece of legislation, one that not only addressed the immediate problem dealing with trade issues, but also incorporated some other good ideas that all of us believed were important to be a part of that legislation. All of them were in one way or another bipartisan amendments offered on the floor of the Senate.

The legislation provided tax deductions for American manufacturers to stimulate job growth in our economy. It protected American workers' overtime provisions that had been adopted by this body and the other body on several occasions over the last year.

The legislation limited the outsourcing of American jobs with the use of American taxpayer money. Senator SPECTER and I and 68 of our colleagues endorsed that amendment which was before the Senate.

In addition, the Senate-passed bill contained an extremely important and delicate compromise worked out between the Senator from Massachusetts and the Senator from Kentucky that would have provided financial relief to hard-pressed tobacco farmers, while at the same time establishing critical new protections for the health and safety of our children, 2,000 of whom start smoking each and every day in the United States.

The Senate bill was a very good piece of legislation. It was a sensible bill and a well-crafted bill. Senators BAUCUS and GRASSLEY did an outstanding job.

Unfortunately, that bill is at best dimly reflected in the conference report that we voted on today. The Senate bill essentially has been mugged, if I might say, by the other body and by the administration. In its place, the Senate was asked to consider a conference report that lacks many of the provisions most important to America's small businesses and to workers. In their place, the conference report has added a number of provisions that amount to little more than sops to a variety of special interests from NASCAR to makers of ceiling fans.

In the process the bill neuters the ability of Congress to make meaningful contributions to economic growth. At the same time it creates new threats to fiscal discipline, which is at an all-time low.

Allow me to discuss several of these shortcomings in more detail, and to discuss other provisions that were either left out of this conference report or changed dramatically from the legislation that left this body only a few weeks ago.

First, I am concerned that this bill may not achieve its central goal: lifting the European Union duties, which currently are at 12 percent and could reach as high as 17 percent. Instead of simply repealing the Foreign Sales Corporation and Extraterritorial Income Exclusion (FSC/ETI), the conference report uses House language which phases the subsidy out over two years and allows companies to receive a percentage of the subsidy based on what they export each year. We were told early on that the European Union would find the Senate language acceptable for the removal of sanctions. We were also told that the language from the other body raises serious reservations within the European Union.

In last week's Washington Post, the European Union spokesman Anthony Gooch was quoted as saying:

"The export subsidy phases out of existence slowly when it should be lifted immediately."

So here we are, about to pass a massive tax bill that is supposed to fix our FSC/ETI problem, and yet we are not even sure if it will do that job. In other words, we might have to do this all over again. The E.U. had said that the Senate-passed language would be acceptable, but had expressed concern over the House language. And here we are with a conference report with the House language. I find this baffling and deeply troubling. And while some would welcome another opportunity to pass even more special interest tax cuts in another FSC/ETI bill, this Senator would certainly not.

Second, instead of meaningful, broad-based, and fiscally responsible tax relief for manufacturing here in the United States, the conference report includes a smorgasbord of special provisions. Even the administration's Treasury Secretary just last week highly criticized this legislation as including a "myriad of special interest tax provisions that benefit few taxpayers and increase the complexity of the tax code." I am quoting the Secretary of the Treasury about this bill we just overwhelmingly adopted.

Let me mention some of these provisions, and then ask your own constituents whether they think this is a wise use of their tax dollars. We are going to provide a $101 million tax break that would allow NASCAR racetracks to recover costs over 7 years; a $445 billion Alaska energy tax break; $42 million for film and television production; $27 million to the horse and dog racing industries. Ask your constituents whether they think these provisions are critically important at a time when we have massive deficits, whether these interests are the kinds of interests we should be including in a bill primarily designed to increase manufacturing, to limit the kinds of export problems we have as a result of trade agreements.

It seems to me we have gone far afield of what we should have been doing, far afield of what the Senate did only a few weeks ago.

I might point out as well that in this legislation we are not doing what we ought to be doing, and that is, of course, trying to provide some real relief for the manufacturing sector in our economy. It is a well-known fact that our manufacturing sector is hurting. The erosion of our manufacturing base is of great concern. Under the present Administration we have lost nearly 2.7 million manufacturing jobs. Just last Friday, the September unemployment numbers showed that we only added 96,000 new jobs. This is one-third the job growth of 300,000 per month that would have been achieved if job growth had occurred at the rate this average for a recovery. The September unemployment numbers also showed that we actually saw manufacturing jobs fall by 18,000—the largest drop since December, 2003. Despite this fact, this conference report weakens language that would have rewarded domestic manufacturing by giving an even bigger tax cut to companies that manufacture more of their goods in the U.S. It expands the definition of what constitutes manufacturing to include industries that hardly fall within the category of manufacturing. By diluting the definition of manufacturing and expanding this out by some 9 or 10 percent, we are going to make it harder for the very industries which are critically important to our long-term economic growth to create jobs. By expanding that definition, we have set ourselves back.

According to the Joint Committee on Taxation's complex analysis of the manufacturing deduction in this bill, which they are required to do by law and which was tucked away at the end of the conference report, only slightly more than 10 percent of small businesses will be affected by these provisions. Only 10 percent of small businesses will be able to enjoy the benefits of this legislation. Since the title of this bill is a jobs bill, I would have expected more help for our smaller companies which are the biggest source of job growth in our Nation.

The Joint Tax report also notes that "the provision will result in an increase in disputes between small businesses and the IRS." Reasons for such a dispute "include the complexity of the provision and the inherent incentive for small businesses and other taxpayers to characterize the activities as qualified production activities to claim the deduction under the provision." Just what a small business needs, a more complex Tax Code and problems with the IRS.

Third, this legislation changes a major provision which was adopted in the bill as it left the Senate—a provision that stopped the use of federal tax dollars to subsidize the outsourcing of American jobs. As the author of this provision dealing with outsourcing, I am terribly disappointed that, despite the fact that an overwhelming majority of our colleagues on a bipartisan basis approved language that prohibited the use of American taxpayer money to outsource jobs outside of the United States, this provision was stripped out in the conference report.

We ought to be exporting our products and our services, not jobs in this country. At a time when as many as 14 million white-collar jobs could be lost over the next 10 years from outsourcing and with 2.7 manufacturing jobs already lost in the last four years, the American people deserve a majority in Congress to stand up against the surge of outsourcing afflicting this country.

The unanimous vote of the 12 conferees on the Republican side to take the outsourcing provisions out of this bill, I think, is a slap in the face of American workers. The fact we would be using Federal taxpayer money to hire someone offshore to do a job that ought to be done in the United States I think is wrong. I am for fair trade and free trade. We ought to stand up for the American worker. They are worried and concerned about their future. They are bothered about whether they are going to have enough to take care of their families' needs.

Yet we found nothing wrong with continuing to have provisions in our policies that allow tax money to be used to hire people outside of this country, when jobs are needed in the U.S. We have the worst job production in almost 70 years in the U.S. We ought not to be stepping back. This bill stripped out a provision that was adopted here by a vote of 70 to 26. I think that was a great mistake. I regret that my colleagues on the conference committee sought to do that.

It is no secret how much this Administration supports outsourcing. They believe, it is, in their words ''a good thing.'' They said so in the President's Economic Report to Congress this year, and they so again in this conference agreement.

Fourth, the conference report does nothing to protect overtime pay. Six million citizens rely on overtime pay to provide for their families' needs. So many families are struggling to make ends meet. The cutback in overtime is an unfair burden that American workers should not have to bear.

Overtime pay amounts to about 25 percent of the income of workers who work overtime. These include police officers, firefighters, nurses, and many others. Workers stripped of overtime protections will end up working longer hours for less pay.

The Bush administration's overtime regulation would deny overtime protections to as many as 6 million hard-working men and women, including registered nurses, cooks, clerical workers, nursery schoolteachers, and others. Even veterans, who have served in Iraq and Afghanistan, would be hurt. If they received some training as soldiers that would give the administration an excuse to classify them as ''managers'' in the civilian workforce, they could be denied overtime—even if they resume the same job. That is an outrage.

The Senate has voted against the Bush rule three times and said you should not impose that rule. The House voted twice to say don't impose that rule. Yet the conference committee sought to drop it entirely.

So the Bush administration's rule on overtime will affect 6 million Americans adversely. Fifty-five categories of jobs that qualify for overtime pay are gone. That is now out, despite the fact we insisted it be part of this legislation.

Fifth, the conference report breaks an agreement we made not only to protect tobacco farmers but also children. It was a bipartisan agreement that simply said that if we were to help out tobacco farmers, we were going to have FDA regulations to protect children from the life-threatening dangers of tobacco. These dangers—and the costs they pose to our nation—are enormous.

By regulating tobacco products and taxing them higher, tobacco farmers are going to be adversely affected. Some tobacco—specifically tobacco made into cigar wrappers—is grown in my State. I see my colleague from North Carolina here and I know how important that issue is to her and her constituents, just as it is in Kentucky. I think they deserve help as a result of this legislation, but I also believe part of the deal here was that we were going to allow this industry to be regulated by the FDA. To strip the FDA provision out, I think, was a great mistake. I think that we will regret it.

It costs us $75 billion a year in health care costs to deal with tobacco-related illnesses in America. According to the Centers for Disease Control and Prevention, tobacco use by pregnant women alone causes between $400 million and $500 million per year due to complications of low birth weight, premature births, and sudden infant death syndrome.

Every day, another 2,000 kids start smoking in America, one third of whom will die prematurely. That is not speculation. That is a fact. Yet this bill stripped it out and said we would provide relief to tobacco farmers but forget about doing a better job of regulating an industry that is causing so much harm and sadness in our country because of the related illnesses and death caused by people who smoke.

Sixth, the conference report is missing a provision included in the Senate bill I cosponsored, which is the Landrieu amendment. We are going to have a separate vote on that later. It is not a likely amendment that will be offered and voted on in the House. We will vote on it, but it is still not going to be included in legislation that goes to the President for signature. That was the provision that would have honored patriotic employers who continue to pay the salaries of their employees, who are members of the National Guard and Reserve and are deployed in the war on terrorism—whether it be in Afghanistan or Iraq. Employers would have been eligible for a 50-percent tax benefit for wages they paid to members of the National Guard and Reserve while on Active-Duty status. The credit would have been good up to 12 months, about the length of a standard deployment in Afghanistan or Iraq.

Forty-one percent of activated Guard and Reserve take a reduction in pay when called to duty. This places a tremendous burden on their loved ones back home. Yet conferees stripped the provision out of the conference report.

As my friend and colleague from Louisiana pointed out earlier, the $44 million tax credit for ceiling fans included in the conference report would have paid for 1 year of Guard and Reserve tax credits. Yet the conferees chose ceiling fans over businesses, or saving jobs for our National Guard and Reserve people.

Finally, this conference report is fiscally reckless. While the offsets are likely to expire, the tax breaks are likely to be extended—if past history under this leadership is any guide. That will only add tens of billions of dollars to the deficit. We have the highest deficit in the history of our country. This is a birth tax on young children being born because we already know they bear an obligation to pay back in interest to the Federal Government a staggering amount of money. The idea we are going to have higher mortgage rates, higher car payments, and tuition costs because of mounting deficits, because $1.8 trillion of America's debt is held by nations outside of the United States—principally Japan and China. That is dangerous, in my view. This bill adds tremendously to the national debt. We are not paying for it.

For all of those reasons, I think we would have been wise to wait when cooler heads prevail, and deal with what we should have been dealing with, or at least draft legislation that was the rationale for bringing it up in the first place, and deal with the trade issue. We didn't do that well in this bill.

I was in a small minority to vote against this, but I believe strongly that if you think something is as wrong as this is, you have to speak out against it. For the reasons outlined here, and because we so emasculated what we did in the Senate a few weeks ago and brought back a piece of legislation that hardly resembled what we did in the Senate, I could not vote for this legislation.

I hope we come back in January and reconsider some of the provisions included in this bill and do a better job on behalf of the American taxpayer and future generations of Americans.

I yield the floor.

For his last 5 years, Jesse's right hand on tobacco issues was David Rouzer, and David has been my senior adviser as we have worked through this buyout.

At a young age, David began working on his family's tobacco farm in Johnston County, NC. He understands the stress that tobacco farmers have been under, and he has labored tirelessly to get us to this day.

I made the buyout a top priority when I arrived in the Senate because our tobacco-producing communities have suffered terribly—terribly—in recent years. The rigid Government program created in the 1930s was not designed for the intense world competition of today. It was not designed to withstand the consequences of the master settlement agreement.

In past years, our farmers led the world in tobacco production. Now they account for only 7 percent of flue-cured tobacco sold worldwide. The time has come to end the last of the Depression-era farm programs. Our farmers want to operate in a free market.

As the U.S. market share of tobacco has slipped, the quota system, with its price supports, kept U.S. producer costs artificially high. These high prices led to tobacco imports from lower cost countries, such as Brazil and China. Under the current tobacco program formula, the decline in demand for American tobacco produced a cut in quota, the amount of tobacco a farmer can grow and sell.

In just the last 5 years, the tobacco quota has been cut almost 60 percent. That is the equivalent of cutting your paycheck by 60 percent. There is not a business in America that would not take a serious hit with a 60-percent cut in revenue. And according to agricultural economists, these farm families were about to get an additional 33-percent cut in quota for the 2005 crop-year. These cuts have had profound impacts on North Carolina's tobacco communities. For almost 70 years, the U.S. Government-issued tobacco quota was something you could take to the bank, literally.

Under permanent law, they could expect a yearly return on investment. Farmers used it as collateral for loans in order to put the next year's crop in the field. Families handed quota down from generation to generation. That paid the death tax as part of keeping family farms alive. Widows have counted on quota as an investment to supplement their Social Security.

By buying out these quota holders, we give families the option of retiring with dignity. We give them the ability to pay off the banks for loans made against an ever-shrinking collateral. By getting the buyout done before the next quota cut, literally thousands of families in rural North Carolina will be saved from bankruptcy.

Rather than having to quit the farm, this buyout gives our farmers the ability to compete in the free market, and if farmers want to continue to grow leaf, they can compete worldwide without the artificial cost increase.

Many will also use this opportunity to invest in new equipment and transition to other crops. This tobacco buyout will help not only the farmers and their families, but their hard-pressed communities. It is the retailers, equipment dealers, chemical and fertilizer dealers, and a whole array of small local businesses that will also benefit from the tobacco buyout. These are the very small businesses that create the majority of new jobs in tobacco-producing States—jobs that are much needed.

With our action today, we come to the end of an era in tobacco policy. We stop conceding tobacco production to countries such as China and Brazil. We stop foreclosures to thousands of farmers, and we stop the negative economic ripple effect throughout rural communities in the Southeastern States. For that, we can all be extremely proud.

To those who have worked so hard on the tobacco quota buyout, on behalf of the thousands of farm families in North Carolina and throughout the Southeast, a heartfelt thank you. What has been accomplished is a legislative miracle and a monumental achievement. It has been a great privilege to work with you.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. CORNYN). The Senator from Massachusetts.

Mr. KENNEDY. I ask the Chair—I believe I have 30 minutes—when I have 2 minutes left to notify me.

TRIBUTE TO CHRISTOPHER REEVE

Mr. KENNEDY. Mr. President, I join with others in the Senate to say it is with deep sorrow I note the death of Christopher Reeve. Christopher set a wonderful example of courage and perseverance for men and women all over this country who are afflicted by disabilities, and particularly those who have spinal cord injuries.

Christopher never gave up hope that eventually he could be cured. He worked hard to keep his body in the best shape possible to prepare for the day when an effective treatment for his injury would be available, and he fought unceasingly to foster the scientific research that offers hope and help to millions of others afflicted with severe injuries or dreaded disease.

He was particularly involved in the battle for stem cell research because he saw it as the best opportunity for curing not only his injury but also a host of other diseases from Parkinson's and diabetes to heart disease. This election is critical in achieving Christopher Reeve's vision because only one candidate for President, JOHN KERRY, is committed not only to stem cell research but to good science generally, science not constrained by ideology or partisanship.

I am going to come back to this subject matter in just a moment.

LEGISLATIVE AGENDA

OVERTIME PROTECTIONS

Mr. KENNEDY. Mr. President, I take note that the Senate, a little while ago, for the fourth time, passed the overtime protections bill yesterday. This is the same bill the House has already passed twice. So I hope they act as soon as possible on the bill we sent them yesterday. There is no reason we cannot get the discharge petition in the House of Representatives on that and also the provisions that we passed on FDA protections for children.

I hope President Bush is listening to the bipartisan majorities in the House and Senate who repeatedly tell him to repeal those parts of his regulation on overtime that take away pay for hard-working, middle-class Americans.

FSC/ETI

Mr. KENNEDY. Mr. President, on the FSC legislation that was just passed, I want to say a few words. The American middle class is the heart and soul of our country, but you would never know it from the FSC bill. We should be helping middle-class families, not hurting them, but this bill uses your taxes to ship your jobs overseas. It allows President Bush to cut your overtime pay, and it allows big tobacco companies to market cigarettes to your children.

On issue after issue in this legislation, elite corporate interests are the winners at the expense of average Americans. If the middle class is the backbone of America, then this bill is contrary to American values. And if President Bush really cared about the middle class instead of just big corporations, he would veto this bill when it comes to his desk.

EDUCATION

Mr. KENNEDY. Mr. President, on another matter, President Bush may be leaving 5 million children behind in our schools, but he is sparing no expense in a national campaign to cover up the failures of his administration on public school reform. Somehow the Bush administration can never find the money in the budget to hire and train teachers to help failing schools to expand after-school programs. But when it comes to politics and PR campaigns, he can find thousands and thousands of your tax dollars for White House propaganda. In a line that President Reagan made famous: There you go again.

They use taxpayers dollars to produce political ads for their bad Medicare bill, and they are doing it again with their failed education program.

I refer to the October 11 AP story by the education writer, Ben Feller. He writes:

> The Bush administration has promoted its education law with a video that comes across as a news story but fails to make clear the reporter involved was paid with taxpayer money. The Government used a similar approach this year in promoting the new Medicare law and drew a rebuke from the investigative arm of Congress which found that the videos amounted to propaganda in violation of Federal law.

That is why we ask Secretary Paige to take this propaganda off the airways